

REMARKS

Claims 1-15 are pending in the present application. By this amendment, Claim 16 is canceled as being drawn to a non-elected invention. Applicants respectfully request consideration of the present claims in view of the following remarks.

I. Prior Art Rejections:

Claims 1-15 stand rejected under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent No. 5,698,322 to Tsai et al. (hereafter "Tsai") in view of U.S. Patent No. 5,783,505 to Duckett et al. (hereafter "Duckett"). This rejection is respectfully traversed.

Claim 1 is directed to, *inter alia*, a nonwoven web having a permeability within the range of about 500 to about 1500 μm^2 and a void volume that is greater than about 25 cm^3/gram , wherein the web includes a first biodegradable binder fiber that does not undergo severe heat shrinkage, and a second biodegradable, thermoplastic fiber.

Tsai is co-owned by the Assignee of the present invention. This patent is directed to nonwoven webs having a plurality of fibers.

Duckett is directed to nonwoven webs having a mixture of fibers. The mixture may include cellulose acetate.

It is respectfully submitted that the combination of the Tsai and Duckett references fails to teach or suggest Applicants' claimed invention. As set forth in the present invention, the webs of the present invention are designed to have a high void volume with a medium permeability while still providing a web that is strong enough to be used. As would normally be expected to one of ordinary skill in the art, an increase in void volume would increase permeability while a decrease in void volume would decrease permeability. However, the present invention is able to achieve a high void volume while keeping a low permeability. This characteristic is totally unexpected and is the patentable feature of the present invention as compared to the webs of Tsai. This characteristic is, therefore, an unexpected result and not an optimization of the Tsai reference. This characteristic is achieved using a heretofore unknown combination of material morphology and surface science to achieve this high volume/low permeability web.

The uniqueness of the present invention was shown in the application at page 3, line 21 to page 4, line 3 and, more specifically, in Table 3. As shown in Table 3, control samples 1 and 2 showed the "expected" characteristics. Sample 1 (a current surge material) had a high

void volume of 26.0 cc/g with a corresponding high permeability of 2078. Sample 2 (100% bicomponent PLA) had a low void volume of 14.3 cc/g and a low permeability of 402.3. However, the present invention exhibited a higher void volume than Sample 1 (29.6 cc/g) but, unexpectedly, a much lower (by 42%) permeability of 1231. Additionally, as shown in Example 11 of Tsai, the prior art, including the Assignee's own patents; were not able to achieve this unique and unexpected result. Example 11 provides a web that has a low void volume of 15.7 cc/g and a corresponding low permeability of 350. As such, contrary to the Examiner's assertions, it would not have been obvious to the skilled artisan to vary the permeability and void volume as the unexpected results achieved by Applicant would not have been recognized. Accordingly, it is respectfully submitted that the combination of Tsai and Duckett fails to teach or suggest Applicants' claimed invention.

For at least the reasons given above, Applicants respectfully submit that Claim 1 is allowable over the art of record. Furthermore, since Claims 2-15 recite additional claim features and depend from Claim 1, these claims are also allowable over the art of record. Accordingly, Applicants respectfully request withdrawal of this rejection.

II. Conclusion:

For at least the reasons given above, Applicants respectfully submit that Claims 1-15 define patentable subject matter. Accordingly, Applicants respectfully request allowance of these claims.

The foregoing is submitted as a full and complete Response to the First Office Action mailed November 29, 2001, and early and favorable consideration of the claims is requested.

Should the Examiner believe that anything further is necessary in order to place the application in better condition for allowance, the Examiner is respectfully requested to contact Applicants' representative at the telephone number listed below.

No additional fees are believed due; however, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855.

Respectfully submitted,



By: Theodore M. Green
Reg. No. 41,801

KILPATRICK STOCKTON, LLP
Suite 2800
1100 Peachtree Street
Atlanta, Georgia 30309-4530
404/815-6500
Attorney Docket No. 44040.228238
Attorney File No. 11302-0530
K-C No. 14,747